12/12/07

(G1)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Writ Petition No. 7227 of 2007

Petitioner : Om Prakash Agrawal, S/o Shri Mani Ram Agrawal, aged about 50 years, Sole Proprietor M/s Om Prakash Agrawal & Sons HUF, Gajanand Mandir Road, CHANDRAPUR (M.S.)

Versus

Respondents

1. Coal India Limited, 10, Netaji Subhash Road, Kolkatta - 700001 through its Chairman.
2. South Eastern Coalfields Ltd., Seepat Road, Bilaspur Through its Chairman-cum-Managing Director.
3. General Manager (S&M) South Eastern Coalfields Ltd., Seepat Road, Bilaspur (Chhattisgarh)
4. Director (Marketing), Coal India Limited, 10, Netaji Subhash Road, Kolkata (W.B.)
5. General Manager (S&M), Coal India Limited, 10, Netaji Subhash Road, Kolkata (W.B.)
6. M/s Metal Junction Service Ltd., Tata Centre, 43 Jawahar Lal Nehru Road, Kolkatta Through its Senior General Manager Shri Vinaya Varma

Writ petition under Article 226 of the Constitution of India

Present : Shri Manindra Shrivastava, Senior Advocate with Shri Akhilesh Dalpati, counsel for the petitioner.
Shri P.S. Koshy, counsel accepts notice for respondent Nos. 1to5 because he had appeared in the identical matter.

ORAL ORDER
(Passed on 07th December, 2007)

The following oral order of the Court was passed by Hon'ble Jagdish Bhalla, Ag. C.J.

Heard learned counsel for the parties.

It has been submitted by Shri Manindra Shrivastava, learned counsel appearing on behalf of the petitioner-Company that the writ petition is directed against the order of blacklisting dated 3rd October, 2007. It has been further submitted that the petitioner-Company has been blacklisted on certain recommendations made by respondent No.6. It has also been submitted that no opportunity has been provided to the petitioner-Company, therefore, learned counsel for the petitioner-Company alleges violation of principles of natural justice and relies on decisions rendered in *M/s Erusion Equipment & Chemicals Ltd. v. State of West Bengal*, AIR 1975 SC 266 and *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

Learned counsel appearing for the parties submit that this matter is squarely covered by the judgment of this Court, dated 06-11-2007 passed in W.P.(C) No. 6629/2007 and this matter may also be disposed of in the light of above judgment.

On behalf of respondent Nos. 1 to 5, Shri P.S. Koshy, learned counsel submitted that the authorities of S.E.C.L. deemed it fit that the blacklisting can be done on the recommendations of respondent No.6, therefore, order dated 03-10-2007 was passed against the petitioner-Company.

In the light of the fact that no opportunity has been provided to the petitioner-Company, therefore, the writ petition can be finally disposed of, as suggested by Shri P.S. Koshy, learned counsel for respondents No.1 to 5. Accordingly, the impugned order dated 03-10-2007, which suffers from illegality, is set aside only as far as the petitioner-Company is concerned, without further making any

observation on the merit of the matter except that reasonable opportunity should have been given to the petitioner-Company to defend itself before passing of order of blacklisting.

It is open for the authorities of S.E.C.L. concerned to afford an opportunity to the petitioner-Company in accordance with law and decide the matter expeditiously, if they so desire. However, on the basis of recommendations, the authorities of S.E.C.L. may proceed in the matter.

With the aforesaid observation, the writ petition is disposed of.

Shri P.S. Koshy, learned counsel for the petitioner-Company shall inform the authorities of S.E.C.L. concerned about this order. However, it would be open for the counsel for the petitioner-Company to file an affidavit to the extend that the writ petition challenging the impugned order dated 03-10-2007 has been decided and the impugned order has been set aside in presence of Shri P.S. Koshy, learned counsel for respondents No. 1 to5.

Learned counsel for the petitioner undertakes that the petitioner will cooperate with the authorities concerned in any enquiry, if instituted.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

nimmi